

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CAPITOL RECORDS, LLC, <i>et al</i> ,)	
)	
<i>Plaintiffs,</i>)	No. 07 Civ. 9931 (WHP)(FM)
)	
v.)	
)	
MP3TUNES, LLC, and MICHAEL ROBERTSON,)	<u>NOTICE OF MOTION</u>
)	
<i>Defendants.</i>)	
)	
)	
MP3TUNES, LLC, and MICHAEL ROBERTSON,)	
)	
<i>Counter-Claimants,</i>)	
)	
v.)	
)	
CAPITOL RECORDS, LLC, <i>et al</i> ,)	
)	
<i>Counter-Defendants.</i>)	
)	

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the undersigned attorneys for Plaintiffs shall move this Court, before the Honorable William H. Pauley, United States District Judge for the Southern District of New York, at the United States Courthouse located at 500 Pearl Street, Room 11D, New York, New York 10007, at a time set by the Court, for reconsideration, pursuant to Local Rule 6.3, of those portions of the Court's Memorandum and Order dated August 22, 2011 finding (1) that the safe harbor protections of 17 U.S.C. § 512 apply to sound recordings created prior to February 15, 1972; and (2) that the defendant, MP3tunes LLC, adequately implemented a repeat infringer policy.

Dated: New York, New York
September 6, 2011

Respectfully submitted,

By: Andrew H. Bart

Andrew H. Bart
Carletta F. Higginson
Joseph J. McFadden
JENNER & BLOCK LLP
919 Third Avenue
37th Floor
New York, NY 10022
tel. (212) 891-1690
fax (212) 891-1699

-and-

Steven B. Fabrizio
JENNER & BLOCK LLP
1099 New York Avenue, NW
Suite 900
Washington, DC 20001
tel. (202) 639-6000
fax (202) 639-6066

*Attorneys for Plaintiffs Capitol Records, LLC,
Caroline Records, Inc, EMI Christian Music
Group Inc., Priority Records LLC, Virgin Records
America, Inc.*

PRYOR CASHMAN LLP

By: FSZB

Donald S. Zakarin
Frank P. Scibilia
Mark A. Tamoshunas
M. Mona Simonian
PRYOR CASHMAN LLP
7 Times Square
New York, New York 10036-6569
Telephone: (212) 421-4100
Facsimile: (212) 326-0806

*Attorneys for the Beechwood Music Corp.,
Colgems-EMI Music Inc., EMI April Music Inc.,
EMI Blackwood Music, EMI Full Feel Music,*

EMI Golden Torch Music Corp., EMI Longitude Music, EMI Virgin Music, Inc., EMI Virgin Songs, Inc., EMI Al Gallico Music Corp., EMI Algee Music Corp., EMI Feist Catalog, Inc., EMI Gold Horizon Corp., EMI Grove Park Music, Inc. EMI Hastings Catalog, Inc., EMI Mills Music, Inc., EMI Miller Catalog, Inc., EMI Robbins Catalog, Inc., EMI U Catalog, Inc., EMI Unart Catalog, inc., Jobete Music Co., Inc., Screen Gems-EMI Music, inc., Stone Agate Music, and Stone Diamond Music